

STAFF REPORT

ORDER AMENDING WASTE DISCHARGE REQUIREMENTS GENERAL ORDER NO. R5-2007-0035 FOR EXISTING MILK COW DAIRIES

In May 2007, the Central Valley Water Board adopted Waste Discharge Requirements General Order No. R5-2007-0035 for Existing Milk Cow Dairies (General Order). Over 1400 facilities are regulated by this order.

The General Order calls for completion and submittal of numerous technical reports. Due to the extensive work involved in preparation of the reports, due dates for completing the reports are spaced out over several years. One of these reports is the Waste Management Plan (WMP), which addresses the production portion of the dairy, including the corrals and wastewater storage lagoon. Among other things, this plan must demonstrate that the dairy has enough wastewater storage capacity in the lagoons and that the facility meets the flood protection requirements of the General Order. If changes are needed to the production area for compliance with the requirements of the General Order, engineered plans must be developed and included in the report. The deadline for submitting the WMP is 1 July 2009.

Finding 38 of the General Order states: "The Central Valley Water Board recognizes that this Order imposes new and more stringent requirements on existing milk cow dairies than they have previously been required to comply with and that some revisions to this Order may be necessary in the future in order to address issues that are not presently foreseen. The Executive Officer will provide annual updates to the Central Valley Water Board on the overall compliance with the Order and make recommendations for revisions to the Order if necessary." To date, no revision has been made to the General Order.

The Community Alliance for Responsible Environmental Stewardship (CARES), a coalition of California's dairy producer and processor associations, has submitted a letter requesting Board consideration of a change in the due date for technical information that must be submitted under the General Order. The proposed change would allow dairies to submit elements of the WMP as late as 1 July 2010 instead of by 1 July 2009, the current due date. There would be no change in the 1 July 2011 date when dairies must certify that they have completed all changes called for by the WMP.

The CARES request estimates that preparation of the WMPs can cost up to \$30,000 per facility. CARES states that the dairy industry has been impacted by a decrease in milk prices associated with the national and international economic downturn. CARES reports that on 1 February 2009 the minimum price paid to producers for milk dropped from \$1.50 per gallon to 97 cents, but that, at the same time, production costs have continued to rise from last year's levels.

Given the current economic challenges facing the dairy industry, a change to the deadline for the WMP is reasonable. The economic situation facing California dairies currently is markedly changed from the economic climate at the time the Central Valley Water Board adopted the time schedules in the General Orders. As laid out in Finding 38 of the General Order, the Board anticipated at the time of the adoption of the General Order that revisions may be necessary in the future to address unforeseen issues. Revising the deadline for submission of elements of the WMP to 1 July 2010 does not change the 1 July 2011 due date when all improvements must be in place. Therefore, the modification will have no impact on water quality.

Changing the due date for the WMP will help spread out some of the costs imposed by the General Order over a longer time period, but all other activities will continue on the original schedule. The Nutrient Management Plan, the Salinity Report and an Annual Report would still be due this coming July. Routine monitoring will also continue.

If the due date for the WMP is changed to July 2010, dairies that delay completion of this report will only have one year to implement facility modifications following receipt of detailed engineered designs in the WMPs. To ensure that this work stays on schedule, staff recommends adding a status report with a due date of 31 December 2010. This report would detail progress made in implementation of any facility improvements directed by the WMP.

Comments on the tentative Order are not due until 13 April. The written comments, and staff responses to the comments, will be provided to the Central Valley Water Board prior to the meeting.

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RJS